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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,072	08/06/2001	Victor H. Shear	7451.0003-02	3373

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EXAMINER

CALLAHAN, PAUL E

ART UNIT PAPER NUMBER

2137

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/925,072

Applicant(s)

SHEAR ET AL.

Examiner

Paul Callahan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 44-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)

~~Paper No(s)/Mail Date~~ P.C.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-43 were originally pending but have been cancelled in favor of new claims 44-49 by preliminary amendment. Claims 44-49 have been examined.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 44-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 44 contains the limitation: "adequately describing the specification". It is unclear what is meant by what standard the adequacy is judged, or what is meant by the use of the term in this context. Claims 45-49 are dependent on claim 45 and are therefore rejected on the same basis as claim 45.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 44-49 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by McManis, US 5,692,047.

As for claim 44, McManis teaches a method including the following: at a certification authority, receiving an executable program generated by a party independent of the certification authority (fig. 1 items 102 & 104, col. 4 lines 65-67); at the certification authority, determining that no specification is available to the certification authority adequately describing the operations of the executable program (col. 5 lines 15-35, ANP Program Compiler only creates the digital signature for ANP program code meeting the criteria of lacking such a certificate), at the certification authority, testing the executable program and, based on the results of the testing, generating a specification describing the operation of the executable program (col. 5 lines 55-67); and at the certification authority, generating a digital certificate certifying that the executable program operates in the manner described in the specification (col. 2 lines 30-65, col. 3 lines 20-30).

As for claim 45, McManis teaches a method as in claim 44, further including: receiving the executable program at a user site (col. 6 lines 1-13); receiving the digital certificate at the user site; at the user site (col. 6 lines 1-13), evaluating the digital certificate to determine if the digital certificate is associated with the executable

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program, at the site (col. 6 lines 40-45), evaluating the digital certificate to determine whether to execute the executable program, and at the user site, executing the executable program, the execution being dependent on the evaluation of the digital certificate (col. 6 lines 60-67, col. 7 lines 15-24).

As for claim 46, McManis teaches a method as in claim 45, in which: the digital certificate specifies a security level, and the user site evaluation of the digital certificate to determine whether to execute the executable program includes comparing the security level to a required security level (col. 2 lines 55-57).

As for claim 47, McManis teaches a method as in claim 45, in which: the user site evaluation of the digital certificate to determine if the digital certificate is associated with the executable program includes comparing a hash value stored in the digital certificate to at least a portion of the executable program (col. 6 lines 54-67).

As for claim 48, McManis teaches a method as in claim 47, in which: the hash value comparison is preceded by the user site decrypting the hash value using a public key associated with the certification authority (col. 6 lines 54-67).

As for claim 49, McManis teaches a method as in claim 45, in which: the digital certificate includes the specification, and the step of evaluating the digital certificate to

determine whether to execute the executable program includes evaluating the specification (col. 11 lines 1-10).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Emmanuel Moise, can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is: (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

6-25-05

*Paul Callahan*